



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

999 18TH Street- Suite 200
Denver, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>
DEC - 5 2006

Ref: 8ENF-W-NP

CERTIFIED MAIL 7003-2260-0002-0331-5840
RETURN RECEIPT REQUESTED

Mr. Bruce E. Cochran
Registered Agent
The Powder Shop
818 Toughenbaugh Blvd.
Rifle, CO 81650

Re: Findings of Violation and
Administrative Order for Compliance,
Docket No. **CWA-08-2007-0008**

Dear Mr. Cochran:

On June 26, 2006, the United States Environmental Protection Agency (EPA) conducted an Industrial User (IU) inspection at The Powder Shop in Rifle, Colorado regarding compliance with the Clean Water Act and pretreatment regulations applicable to metal finishing operations. At the time of the inspection, EPA inspectors identified alleged pretreatment violations, including failure to submit a Baseline Monitoring Report, a 90-Day Compliance Report or any of the required Periodic Compliance Reports. Accordingly, the EPA is issuing an Administrative Order ("Order") which requires you to come into compliance with the pretreatment regulations. The Order specifies the nature of the violations under the Clean Water Act, 33 U.S.C. § 1251, et seq. (the "CWA") for your metal finishing operations at The Powder Shop. The authority for such action is provided to EPA under section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3). The Order describes the actions necessary for The Powder Shop to achieve compliance with the CWA.

The CWA authorizes the Administrator of EPA to take appropriate actions necessary to secure prompt compliance with the CWA and any Orders issued thereunder. Section 309 of the CWA provides a variety of possible enforcement actions, including the filing of a civil or criminal action. Section 508 of the CWA allows for debarment from Federal contracts and/or loans for any noncompliance with the CWA or with an Order issued pursuant to the CWA.

A Small Business Regulatory Enforcement and Fairness Act (SBREFA) information sheet, U.S. EPA Small Business Resources, containing information on compliance assistance resources and tools available to small businesses, is enclosed with this letter. The inclusion of this information sheet does not necessarily mean that EPA has determined that your organization is a small business. SBREFA does not eliminate your responsibility to comply with the requirements of this Order.

Please review the Order carefully. Failure to comply with the requirements of the Order shall constitute a violation of said Order. If you have any questions regarding this letter, or the enclosed Order, the most knowledgeable people on my staff regarding these matters are Aaron Urdiales for pretreatment requirements at (303) 312-6844, and Wendy Silver for legal issues at (303) 312-6637.

Sincerely,

for Eddie A. Seira
Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosures: Administrative Order
Statement of Certification
SBREFA information sheet
40 C.F.R. Part 403 "Metal Finishing"

cc: Tina Artemis, Regional Hearing Clerk
Rick Koplitz, CDPHE (w/enclosures)
Dave Akers, CDPHE (w/enclosures)

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY 2006 DEC -5 PM 12:30
REGION 8

IN THE MATTER OF:

The Powder Shop
818 Toughenbaugh Blvd.
Rifle, CO 81650

Respondent.

FINDINGS OF VIOLATION AND
ADMINISTRATIVE ORDER FOR
COMPLIANCE

Docket No. CWA-08-2007-0008

I. STATUTORY AUTHORITY

This Findings of Violation and Administrative Order for Compliance ("Order") is issued pursuant to section 309(a)(3) of the Clean Water Act ("Act" or "CWA"), 33 U.S.C. § 1319(a)(3), which authorizes the Administrator of the United States Environmental Protection Agency ("EPA") to issue an order requiring compliance by a person found to be in violation of section 307 of the Act, among others, or in violation of any permit condition or limitation implementing any such sections of the Act. This Order is also issued pursuant to section 308(a) of the Act, 33 U.S.C. § 1318(a), which authorizes the Administrator of the EPA to require reports necessary to determine compliance with pretreatment standards. These authorities have been delegated to the undersigned official.

II. FINDINGS OF VIOLATION

1. Respondent, the Powder Shop, is a Colorado corporation doing business in the State of Colorado.
2. Respondent is a "person" within the meaning of section 502(5) of the Act, 33 U.S.C. § 1362(5).

3. Respondent owns and operates a powder coating operation that is located at 818 Toughenbaugh Boulevard, Rifle, Colorado, (Standard Industrial Classification 3479) (the "Facility").
4. Respondent is an "Industrial User" within the meaning of 40 C.F.R. § 403.3(h), and a "Significant Industrial User" as defined in 40 C.F.R. § 403.3(t).
5. 40 C.F.R. § 403.3(o) states that the term publicly owned treatment work ("POTW") includes, "sewers, pipes, and other conveyances only if they convey wastewater to a POTW Treatment Plant."
6. Based on an inspection conducted by EPA representatives at the Facility on June 26, 2006, EPA determined that metal finishing wastewaters are generated at the Facility and are discharged into the City of Rifle's POTW.
7. The City of Rifle's POTW discharges into the Colorado River. The Colorado River is an interstate water and a "water of the United States" within the meaning of 40 C.F.R. § 122.2 and, therefore, a "navigable water" within the meaning of section 502(7) of the Act, 33 U.S.C. § 1362(7).
8. The POTW is authorized to discharge into the Colorado River by the National Pollutant Discharge Elimination System ("NPDES") Permit Number COG584024 (the "Permit"). The Permit was effective on November 8, 2004, pursuant to section 402 of the Act, 33 U.S.C. § 1342. The POTW is subject to all terms and conditions of the Permit.
9. Section 307(b) of the Act, 33 U.S.C. § 1342(b), directs the Administrator of EPA to establish pretreatment standards applicable to indirect discharges to control those pollutants which are determined not to be susceptible to treatment by a POTW. The Act requires the Administrator of EPA to establish standards of performance for certain industrial categories

("Categorical Pretreatment Standards") based on the technology available to treat wastewaters generated by facilities involved with each categorical industry.

10. Under the provisions of section 403.8 of the General Pretreatment Regulations, 40 C.F.R. § 403.8, a POTW may develop and apply for approval of a locally implemented Industrial Pretreatment Program. Upon its approval by EPA, the responsibility to apply and enforce the standards described in this Order is transferred to the POTW. Until such transfer, EPA is the "Control Authority" for enforcing the Federal Pretreatment Standards. The Rifle POTW has not applied for such approval and, consequently, EPA remains the "Control Authority".

11. On July 15, 1983, EPA published technology-based Categorical Pretreatment Standards for facilities discharging metal finishing waste into a POTW (See 40 C.F.R. Part 433). The discharge limitations outlined by the Metal Finishing Pretreatment Standards for New Sources at 40 C.F.R. § 433.17 are applicable to indirectly discharging facilities that were in operation or began construction of regulated processes after August 31, 1982. Respondent is a New Source since production began after May 1984, therefore, the discharge limitations outlined by the Metal Finishing Pretreatment Standards for New Sources at 40 C.F.R. § 433.17 are applicable.

12. In accordance with the administrative provisions of section 403.12(b) of the General Pretreatment Regulations, 40 C.F.R. § 403.12(b), any new source subject to a Categorical Pretreatment Standard is required to file a Baseline Monitoring Report ("BMR") with the Control Authority at least 90 days prior to discharge.

13. Section 403.12(d) of the General Pretreatment Program Regulations, 40 C.F.R. § 403.12(d), requires that any new source subject to Categorical Pretreatment Standards submit a report ("90-day Compliance Report") to the Control Authority on compliance with those standards within 90 days after commencement of discharging to the POTW.

14. Section 403.12(e) of the General Pretreatment Program Regulations, 40 C.F.R.

§ 403.12(e), requires any new source subject to a Categorical Pretreatment Standard to submit to the Control Authority periodic reports ("Periodic Compliance Reports") twice a year after commencement of discharge to the POTW.

15. Respondent failed to submit to EPA a BMR, a 90-Day Compliance Report or any of the required Periodic Compliance Reports.

16. Respondent has violated the reporting requirements for industrial users as follows:

- a. Respondent failed to submit a BMR as required by 40 C.F.R. § 403.12(b). The BMR was due in May of 2004, 90 days before the facility began discharging.
- b. Respondent failed to submit the 90-day Compliance Report as required by 40 C.F.R. § 403.12(d). This report was due in November of 2004, 90 days after the facility began discharging.
- c. Respondent failed to submit Periodic Compliance Reports as required by 40 C.F.R. § 403.12(e) from December 2004 to present.

17. Based on the above, Respondent is found to be in violation of Section 307(d) of the Act, 33 U.S.C. § 1317(d), the Categorical Limitations for Metal Finishers (40 C.F.R. Part 433) and the General Pretreatment Regulations (40 C.F.R. Part 403).

III. ORDER

Based upon the foregoing FINDINGS OF VIOLATION, and pursuant to the authority vested in the Administrator of EPA pursuant to sections 308 and 309(a) of the CWA, 33 U.S.C. §§ 1318 and 1319(a), as properly delegated to the Assistant Regional Administrator of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8, it is hereby ordered to comply with either the discharge option which is outlined in paragraphs 18-22 or the non-

discharge option that is outlined in paragraphs 18, 23 & 24.

18. Within ten (10) days of receipt of this Order, Respondent shall give written notice to EPA of its intent to comply with the requirements of this Order.

Within thirty (30) days of receipt of this Order, the Respondent shall provide the following information.

Discharge Option

19. Within thirty (30) days of receipt of this Order, Respondent shall submit to the Control Authority (EPA) a BMR regarding the discharge of wastewater from The Powder Shop to the City of Rifle, Colorado POTW which must contain the following information as required by 40 C.F.R. § 403.12(b):

- a. Name and address of the Facility, including names of operator(s) and owner(s);
- b. List of all environmental control permits held by or for the Facility;
- c. Brief description of the nature, average production rate and SIC code for each of the operation(s) conducted, including a schematic process diagram which indicates points of discharge from the regulated processes to the POTW;
- d. The measured average daily flow and maximum daily flow for regulated process stream discharged to the municipal system. Flow measurements of other wastestreams will be necessary if application of the combined wastestream formula is necessary;
- e. Identification of the pretreatment standards applicable to each regulated process and results of measurements of pollutant concentrations and/or mass. Submit sampling and analysis results identifying the nature and concentration (or mass, where required) of regulated pollutants in the discharge from each regulated process. All

samples must be representative of daily operations and results reported must include values for daily maximum and average concentration (or mass, where required). A minimum of one representative sample should be taken to compile the necessary data. All sampling and analysis should be performed in accordance with the techniques prescribed in 40 C.F.R. Part 136 and the amendments thereto. If samples cannot be taken immediately downstream from the regulated process and other wastewaters are mixed with the regulated process, the industrial user should measure flows and concentrations of the other wastestreams sufficient to allow use of the combined wastestream formula;

- f. For all samples indicate the date, time and place of sampling, the methods of analysis, and a certification that the sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW (40 C.F.R. Part 403 pollutant listing for "Metal Finishing" is enclosed);
- g. Statement of certification concerning compliance or noncompliance with the Pretreatment Standards;
- h. If not in compliance, a compliance schedule must be submitted with the BMR that describes the actions the user will take and a timetable for completing those actions to achieve compliance with the standard. This compliance schedule must contain specific increments of progress in the form of dates for the commencement and completion of major events, however, no increment of the schedule shall exceed nine (9) months. Within 14 days of each completion date in the schedule, the industrial user shall submit a progress report to the Control Authority indicating whether or not it complied with the increment of progress to be met on such date, and, if not, the

date on which it expects to comply with this increment of progress and the steps being taken to return to the schedule.

20. The Respondent is required to submit a 90-day Compliance Report as required by 40 C.F.R. § 403.12(d) to the Control Authority. The report must indicate the nature and concentration of all regulated pollutants in the Facility's regulated process wastestreams; the average and maximum daily flows of the regulated streams; and a statement of whether compliance is consistently being achieved, and if not, what additional operation and maintenance and/or pretreatment is necessary to achieve compliance.

21. The Respondent is required to submit Periodic Compliance Reports as required by 40 C.F.R. § 403.12(e). The reports must be submitted twice a year during the months of June and December. The reports shall indicate the precise nature and concentrations of the regulated pollutants in its discharge to the POTW, the average and maximum daily flow rates of the Facility, the methods used by the Respondent to sample and analyze the data, and a certification that the methods used conform to those methods outlined in the regulations. Sampling and analysis for TTO (Total Toxic Organics) is required for those organics "which would reasonably be expected to be present" in the Respondent's effluent.

22. All sampling and analysis required by paragraphs 19, 20 and 21 shall be done using methods and techniques described at 40 C.F.R. Part 136.

Non-Discharge Option

23. The Respondent is required to provide documentation of corrective measures taken to eliminate wastewater discharges from the Facility's operations including:

- a) a written narrative describing the actions the Facility has taken to eliminate wastewater discharges from the Facility's operations;
- b) financial records, such as, but not limited to, receipts, invoices and contracts for any work performed or any equipment installed at the Facility to eliminate wastewater discharges;
- c) a schematic, or process flow diagram, of the Facility's operations, including any changes that have been made to the operations to eliminate wastewater discharges. Each step of the process on the schematic shall depict the volume of wastewater that is generated and/or eliminated during the step; and
- d) specifications of any equipment the Facility has installed to eliminate discharges from the Facility's operations.

24. The Respondent is required to provide a certification statement (an example is enclosed) stating that the Facility is a no discharge facility and will not discharge unless prior approval has been granted from the Control Authority.

IV. ADDITIONAL PROVISIONS

25. EPA regulations protect confidential business information. 40 C.F.R. Part 2, Subpart B. If Respondent asserts a business confidentiality claim pursuant to these regulations for information required to be submitted under this Order, such information need only be provided to EPA. If EPA determines the information you have designated as confidential business information meets the criteria in 40 C.F.R. § 2.208, the information will be disclosed only to the extent and by

means of the procedures specified in the regulations. Unless a confidentiality claim is asserted at the time the information is submitted, the EPA may make the information available to the public without further notice to Respondent.

26. All written notices and reports required by this Order shall be sent to the following addresses:

Aaron Urdiales (8ENF-W-NP)
U.S. EPA Region 8
Office of Enforcement, Compliance
and Environmental Justice
999 18th Street, Suite 200
Denver, CO 80202

Rick Koplitz
Water Quality Control Section
Colorado Department of Public
Health and Environment
4300 Cherry Creek Drive South
Denver, CO 80426-1530

**If mailing after December 28, 2006
send to EPA at the following address:**
1595 Wynkoop Street
Denver, CO 80202

27. This Order does not constitute a waiver or modification of the terms and conditions of any NPDES permit held by Respondent, or of any other legal responsibilities or liability. Any such permit remains in full force and effect.

28. Please be advised that section 309(d) of the CWA, 33 U.S.C. § 1319(d), authorizes civil penalties of up to \$27,500 per day for each violation which occurred on or before March 15, 2004, and \$32,500 per day for each violation thereafter, of section 307 of the CWA, 33 U.S.C. § 1317, and for each violation of an Order issued under section 309(a) of the CWA, 33 U.S.C. § 1319(a), including this Order. Further, section 309(c) of the CWA, 33 U.S.C. § 1319(c), authorizes fines and imprisonment for willful and negligent violations of the CWA. Issuance of this Order shall not be deemed an election by the United States to forego any civil or criminal action to seek penalties, fines, or other appropriate relief under the CWA for violations giving rise to this Order.

29. Compliance with the terms and conditions of this Order shall not be construed to relieve Respondent of its obligation to comply with any applicable Federal, state or local law or regulation.

DATED this 5th day of December, 2006

Eddie A. Sierra
for Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

STATEMENT OF CERTIFICATION

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment.

Signature

Date

Printed Name

Official Title



Printed on Recycled Paper



U. S. EPA Small Business Resources

If you own a small business, the United States Environmental Protection Agency (EPA) offers a variety of compliance assistance and tools to assist you in complying with federal and state environmental laws. These resources can help you understand your environmental obligations, improve compliance and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

Hotlines, Helplines and Clearinghouses

EPA sponsors approximately 89 free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements.

The National Environmental Compliance Assistance Clearinghouse provides quick access to compliance assistance tools, contacts, and planned activities from the U.S. EPA, states, and other compliance assistance providers: <http://www.epa.gov/clearinghouse>

Pollution Prevention Clearinghouse
<http://www.epa.gov/opptintr/library/ppicindex.htm>

EPA's Small Business Ombudsman Hotline can provide a list of all the hot lines and assist in determining the hotline best meeting your needs:
(800) 368-5888

Emergency Planning and Community Right-To-Know Act
(800) 424-9346

National Response Center (to report oil and hazardous substance spills)
(800) 424-8802

Toxics Substances and Asbestos Information
(202) 554-1404

Safe Drinking Water
(800) 426-4791

Stratospheric Ozone and Refrigerants Information
(800) 296-1996

Clean Air Technology Center
(919) 541-0800

Wetlands Helpline
(800) 832-7828

EPA Websites

EPA has several Internet sites that provide useful compliance assistance information and materials for small businesses. If you don't have access to the Internet at your business, many public libraries provide access to the Internet at minimal or no cost.

EPA's Home Page
<http://www.epa.gov>

Small Business Assistance Program
<http://www.epa.gov/ttn/sbap>

Office of Enforcement and Compliance Assurance
<http://www.epa.gov/compliance>

Compliance Assistance Home Page
<http://www.epa.gov/compliance/assistance>

Office of Regulatory Enforcement
<http://www.epa.gov/compliance/civil/index.html>

Office of Site Remediation Enforcement
<http://www.epa.gov/compliance/cleanup>

Innovative Programs for Environmental Performance
<http://www.epa.gov/partners>

Small Business Ombudsman
www.sba.gov/ombudsman



[Code of Federal Regulations]

[Title 40, Volume 29]

[Revised as of July 1, 2006]

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TITLE 40--PROTECTION OF ENVIRONMENT

CHAPTER I--ENVIRONMENTAL PROTECTION AGENCY (CONTINUED)

PART 433_METAL FINISHING POINT SOURCE CATEGORY--Table of Contents

Subpart A_Metal Finishing Subcategory

Sec. 433.17 Pretreatment standards for new sources (PSNS).

(a) Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR part 403 and achieve the following pretreatment standards for new sources (PSNS):

PSNS

	Maximum for	Monthly
	any 1 day	average
Pollutant or pollutant property		shall not